

1 **STATE OF NEW HAMPSHIRE**

2 **SITE EVALUATION COMMITTEE**

3 **February 11, 2020** - 9:00 a.m. *(Electronically*
4 Public Utilities Commission *filed on 02-14-20)*
5 21 South Fruit Street Suite 10
6 Concord, New Hampshire

7 **IN RE: SEC DOCKET NO. 2019-02**
8 **SITE EVALUATION COMMITTEE:**
9 **Application of Chinook Solar,**
10 **LLC, for a Certificate of**
11 **Site and Facility.**
12 ***(Prehearing conference)***

13 **PRESENT:**

14 Michael J. Iacopino, Esq., SEC Counsel (Brennan..)
15 *(Presiding as Presiding Officer)*

16 Pamela G. Monroe, SEC Administrator

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23 COURT REPORTER: *Steven E. Patnaude, LCR No. 52*

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APPEARANCES: **Reptg. Chinook Solar, LLC:**
Douglas L. Patch, Esq. (*Orr & Reno*)
Nathaniel B. Morse, Esq. (*Orr & Reno*)
Heath Barefoot, Project Director
Joseph Persechino, Project Manager

Reptg. Counsel for the Public:
Heather Neville, Esq.
Assistant Attorney General
N.H. Department of Justice

ALSO PRESENT: Lisa Murphy
Southwest Regional Planning Comm.

P R O C E E D I N G

1
2 PRES. OFCR. IACOPINO: Okay, we'll
3 start. We're here for a prehearing conference
4 in Docket Number 2019-02, the Application of
5 Chinook Solar, LLC, for a Certificate of Site
6 and Facility for a project located in
7 Fitzwilliam, New Hampshire. Today, we are
8 going to have a prehearing conference. A
9 prehearing conference is an informal
10 opportunity for the parties to meet and to
11 discuss the future progress of this proceeding.

12 There has been an agenda that has
13 been published by the Administrator of the
14 Committee, Pamela Monroe, who is seated to my
15 left. My name is Mike Iacopino. I am the
16 outside counsel to the Committee.

17 The purpose of our prehearing
18 conference is to -- is statutory. We will
19 consider whether there will be offers of
20 settlement; simplification of issues; whether
21 there will be any stipulations or admissions to
22 issues of fact or proof; we can discuss the
23 number of witnesses that there will be; we can
24 discuss any changes to procedures that are

1 usually undertaken by the Committee;
2 consolidation of examination, although we don't
3 have very many parties in this particular
4 docket; and any other matters which aid in the
5 disposition of the proceeding.

6 I believe that, today, two things
7 that we will make sure that we cover are
8 scheduling and the handling of -- well, first
9 of all, the parties' position with respect to
10 the outstanding Motion on Protective Order, and
11 how we will handle any confidential information
12 during the course of these proceedings.

13 So, but before we begin to follow
14 that discussion, let me turn to the parties and
15 have them state their appearances please.

16 MR. PATCH: Good morning. Doug
17 Patch, from the law firm of Orr & Reno, on
18 behalf of Chinook. And seated to my right is
19 Heath Barefoot, the Project Manager, and Nat
20 Morse, who is an attorney with Orr & Reno.

21 MS. NEVILLE: And, good morning.
22 This is Heather Neville, as Counsel for the
23 Public.

24 PRES. OFCR. IACOPINO: Thank you.

1 And we did receive a written correspondence
2 from Amy Manzelli, representing the Town of
3 Fitzwilliam, that indicated that the Town will
4 not be appearing at the prehearing conference
5 today.

6 Okay. Do you want to take it away,
7 Pam, or --

8 ADMIN. MONROE: No. Go ahead.

9 PRES. OFCR. IACOPINO: All right.
10 Let's start with scheduling. I did contact
11 each of you prior to this prehearing conference
12 a few days ago, and asked if you could come
13 prepared with respect to proposed schedules,
14 or, better yet, if you could come up with an
15 agreed upon one that the Committee could
16 consider.

17 MS. NEVILLE: So, may I approach? I
18 have copies for both of us. We're not quite in
19 agreement. So, I wrote on the bottom the
20 "Applicant", they drafted it. And there's mine
21 with my proposed changes.

22 PRES. OFCR. IACOPINO: So, for the
23 record, what she's provided is two proposed
24 schedules. And it looks like the -- right. It

1 looks like the difference of opinion -- oh,
2 yes. Okay.

3 MR. PATCH: If I could just say a
4 couple of words about it?

5 PRES. OFCR. IACOPINO: Sure.

6 MR. PATCH: I don't -- I wouldn't
7 characterize it necessarily as a "difference of
8 opinion". We had tried to float two different
9 options, in terms of a schedule. And, so, what
10 you have in front of you that doesn't have the
11 track changes in it is the one that, on behalf
12 of Chinook, that we had provided to Ms. Neville
13 and Ms. Manzelli.

14 And our idea is we would like to find
15 a way to try to expedite this schedule, if at
16 all possible. So that, you know, assuming that
17 the Committee approves the project, that that's
18 done as much before the statutory deadline of
19 365 days from the acceptance of the Application
20 as possible.

21 And, so, the column on the left, in
22 our copy, and the one in which there are some
23 changes that were made by Ms. Neville, is the
24 statutory maximum scenario. Under that, we

1 were assuming that we would -- that the
2 agencies would still need 240 days, under the
3 statute it says "no later than", for their
4 final recommendation. We have approached DES,
5 in particular, about the possibility of doing
6 it in less than that, and they seem, at first
7 blush, to be, you know, I guess I'd say
8 somewhat accepting of trying to do it that way.
9 But we have not had confirmation from them that
10 they can do that.

11 So, our idea today was to come up
12 with a statutory maximum scenario, which is, I
13 think, what you have to assume, given that we
14 haven't had any confirmation from that. If we
15 tried to keep the dates in the first part of
16 the schedule consistent, but believing that we
17 might be able to get them to agree to do
18 something less than 240 days. Then, it would
19 be relatively easy, I would think, to come back
20 to the Committee in, say, a month or so and
21 say, you know, "we've got the agencies on board
22 with doing that." So, the only thing we'd need
23 to modify would be toward the end of the
24 schedule. So, that's what we were trying to do

1 by providing those two dates.

2 And, so, Ms. Neville has proposed
3 some changes at the beginning of that, most of
4 which are fine with us. We don't have any
5 major issues with that. What we were trying to
6 do ultimately, though, was to shoot for either
7 a hearing at some point in July or sometime
8 early in September, because it was my
9 understanding that it would be very difficult
10 to get the Committee together in August.

11 And, so, with that in mind, the one
12 thing that Ms. Neville and I had talked about
13 was really that "CFP and Intervenors disclosure
14 of witnesses and filing of testimony" date, and
15 whether or not there might be a way to do that
16 a little sooner, assuming that there was at
17 least a possibility we could get the agencies
18 to agree to something less than 240 days.

19 So, that's my thought. But, you
20 know, I don't think we're -- it's not like
21 we're in disagreement about the schedule. I
22 think we're generally in agreement.

23 But our ultimate goal is to try to
24 find a way, if possible, to get an order from

1 the Committee, even sometime in October would
2 be great, but even earlier than that would be
3 ideal, from our perspective.

4 PRES. OFCR. IACOPINO: What's the
5 rush, from your perspective, in terms of what's
6 the reason that the case should be expedited?
7 Is there a construction issue or is it --

8 MR. PATCH: It's a commercial
9 operation date. I'll let Mr. Barefoot speak to
10 that.

11 MR. BAREFOOT: Yes. I just think --

12 PRES. OFCR. IACOPINO: There's
13 nothing that's confidential, of course.

14 MR. BAREFOOT: Yes. I mean, just as
15 a practical matter, the earlier we have a clear
16 line of sight on our permitting, the more time
17 we have to manage the construction schedule.
18 We have, you know, our target commercial
19 operation date in November 1st of 2021. And we
20 have to coordinate the interconnection, along
21 with construct the facility. And also tree
22 clearing, we expect to have tree-clearing
23 limitations, potentially, as well.

24 PRES. OFCR. IACOPINO: Have you -- I

1 mean, in most of these projects, and I know
2 that in your project as well, there are going
3 to be seasonal limitations, --

4 MR. BAREFOOT: Correct.

5 PRES. OFCR. IACOPINO: -- both
6 environmental and perhaps others, --

7 MR. BAREFOOT: That's correct.

8 PRES. OFCR. IACOPINO: -- in terms of
9 the types of construction. Have you sort of
10 figured that out, in terms of whether or not
11 this expedited schedule actually enhances your
12 ability to meet those sorts of seasonal
13 requirements? Or, is it just really to just
14 get the permit in advance and have just
15 flexibility?

16 MR. BAREFOOT: Yes. I think the
17 latter.

18 PRES. OFCR. IACOPINO: Okay. All
19 right.

20 Counsel for the Public, what say you?

21 MS. NEVILLE: Attorney Patch
22 accurately relayed the information. I guess
23 the only thing I would add is it was in
24 conference with Arrowwood Environmental that

1 I'm asking for specifically that June 2nd date.

2 However, if everything goes perfect
3 case scenario, we'd be happy to revisit it, if
4 we're able to get information prepared sooner.
5 So, we're not trying to be a roadblock. But,
6 at the same time, I need to make sure my folks
7 have enough time to process the information.

8 And where they just haven't delved
9 into it enough yet to have a good feeling, that
10 was what they asked me to request.

11 PRES. OFCR. IACOPINO: How is the
12 negotiations with the Town on the MOU going?
13 And, actually, and my specific question is,
14 does any of that revolve around scheduling of
15 the proceeding or is it all pretty much
16 substantive, rather than procedural?

17 MR. PATCH: We're in the midst of
18 negotiations with them. We haven't finalized
19 an MOU or a Payment in Lieu of Tax Agreement.
20 But, you know, we've been sharing different
21 drafts. And, obviously, we're trying to do
22 that, and we're hopeful that we can do that.
23 But I can't honestly say that, we certainly
24 haven't done it yet.

1 But, in terms of it impacting on the
2 procedural schedule, I mean, I guess I don't
3 see it having any real impact there.

4 Obviously, the Town could have been here today,
5 we've shared the procedural schedule with them.
6 I don't think their counsel had concerns with
7 either our original draft or the changes that
8 Ms. Neville sent, and, you know, Ms. Manzelli
9 sent an email yesterday indicating that. So, I
10 don't think the procedural schedule is really
11 impacted by that.

12 PRES. OFCR. IACOPINO: Ms. Neville,
13 any contact with the Town that --

14 MS. NEVILLE: Just the same that
15 Attorney Patch had. Attorney Manzelli emailed
16 us both saying that the Town, I believe, was
17 satisfied with either track, including the
18 dates I had responded with later in the day
19 yesterday that you have in front of you.

20 PRES. OFCR. IACOPINO: So, the Chair
21 can be comfortable that it's unlikely that the
22 Town is going to participate in discovery
23 requests or file any -- or request to present
24 any witnesses? Is that --

1 MS. NEVILLE: I did not have that
2 conversation. So, I don't feel comfortable
3 making that representation.

4 MR. PATCH: And I'm not sure I'd feel
5 comfortable saying that definitively.
6 Obviously, that's our hope. But, you know, I
7 mean, there's, I would guess, at least a
8 possibility that they would still do that. But
9 we shared the entire schedule with them,
10 including the one that calls for testimony by a
11 certain date, and data requests and all of
12 that, and there were no negative reactions to
13 the schedule that we shared with them.

14 PRES. OFCR. IACOPINO: Okay. So, it
15 looks like from, and you add in, Pam, if
16 there's anything I'm missing, but it looks,
17 from our perspective up here, that we need to
18 have some contact with the Department of
19 Environmental Services, and to review this in
20 terms of, obviously, with respect to the
21 Subcommittee's schedule, and when our
22 Subcommittee members are available for the
23 final hearings and deliberations.

24 But what I would propose is the Chair

1 will see these proposals, and she will issue a
2 procedural order.

3 ADMIN. MONROE: Right. That's
4 generally, I think, how we've -- so, we'll come
5 up with a report, and then she'll decide
6 whether she adopts it as a procedural order.
7 So, we'll have to have a conversation with her.

8 PRES. OFCR. IACOPINO: Any objection
9 to any party -- by any party to us contacting
10 DES to get information on their -- how feasible
11 it is for them to meet the expedited schedule
12 here, or something in between?

13 MS. NEVILLE: I don't have any
14 objection.

15 MR. PATCH: No. I think that would
16 probably be helpful.

17 The only other thing I would say is
18 that, obviously, there are some other agencies
19 involved to some degree, you know, in our
20 opinion, to a limited degree. The only one we
21 submitted a full application to was DES for the
22 Alteration of Terrain. There's no wetlands
23 permit.

24 But, of course, the Natural Heritage

1 Bureau, I think you've seen recent
2 correspondence with regard to them, and the
3 Division of Historical Resources. Actually,
4 that's what the correspondence is with regard
5 to. The Fish & Game Department, we've been in
6 touch with, and the Fire Marshal's Office.
7 Those are all the agencies, I think, that have
8 some interest in it, based on the letters that
9 you got back in November.

10 And, so, we figured DES was the most
11 important one to check with in terms of those
12 timelines. But, you know, we've had some
13 communication with those agencies as well, but
14 not -- we wanted to hear from DES first, before
15 we went back to those other agencies, I guess
16 is what I'm trying to say. And, so, it would
17 seem to me it would be important, obviously, to
18 check with them, too. But, again, they don't
19 have any specific permitting authority,
20 although I think the statute talks about
21 agencies that have regulatory authority in some
22 way. So, --

23 PRES. OFCR. IACOPINO: Okay. We will
24 do that.

1 ADMIN. MONROE: I just wanted to ask,
2 I know, as I recall from the letter we received
3 from the Fire Marshal's Office early on, I
4 think there's a statutory requirement that the
5 Town has to request for the Fire Marshal's
6 Office to oversee the electrical code or fire
7 safety code. Do you have any intel on that?

8 MR. PATCH: We've been in touch with
9 Sean Toomey, who I think is the Deputy Fire
10 Marshal. We're trying to schedule a meeting
11 with them to sit down. As I'm sure you recall,
12 we had an agency meeting about a year ago at
13 which they were present, and a representative
14 of the Electricians Board as well. And, so,
15 it's our desire to sit down with them and make
16 sure that they're on board with it.

17 I think their authority, though, the
18 Fire Marshal's authority is more with regard to
19 enforcement of the code, and it's not a
20 permitting authority. So, I think that's
21 something that would come later, you know.

22 ADMIN. MONROE: Okay. Thank you.

23 I guess the only thing that kind of
24 jumps out in here is for Counsel for the

1 Public, the Arrowwood request for June 2nd, and
2 then, if you look at the expedited request,
3 expedited agency response would be June 15th.
4 And it doesn't seem to me, in the event there
5 is something in that testimony that brings to
6 light some issue that hasn't been raised
7 previously, that doesn't seem like there's a
8 lot of time to address that.

9 MS. NEVILLE: So, I agree. And, like
10 I said, that was the deadline request from
11 Arrowwood. If we can pull it together, we're
12 certainly not going to drag our feet to try to
13 move everything forward. But they just wanted
14 to make sure they had a little bit of time to
15 process the information and generate reports.

16 PRES. OFCR. IACOPINO: But you feel
17 comfortable that you can have your request for
18 more information, your data requests, by the
19 end of this month, --

20 MS. NEVILLE: Yes.

21 PRES. OFCR. IACOPINO: -- out to the
22 Applicant?

23 MS. NEVILLE: Trying to move in the
24 same direction of getting everything out. So,

1 my understanding is Arrowwood is working on
2 helping me draft some questions as we speak.

3 PRES. OFCR. IACOPINO: Okay.

4 ADMIN. MONROE: Can I ask the number
5 of days for the adjudicative hearing? There's
6 three on this schedule. Is there -- is that
7 just a guess or is there something more
8 definitive?

9 MR. PATCH: I'm sorry, I missed the
10 very first part of your question.

11 ADMIN. MONROE: So, the final
12 adjudicative hearing on this schedule has three
13 days.

14 MR. PATCH: Yup.

15 ADMIN. MONROE: Is that --

16 MR. PATCH: I think that's -- in my
17 opinion, that's probably more than would be
18 needed. But -- and I think it's premature to
19 try to stipulate and reach agreement on things.
20 But, as I envision it, depending on, of course,
21 on what the consultants for the Public Counsel
22 come back with, I would think we'd be able to
23 stipulate on certainly some aspects of the
24 project. That's -- the history, in recent

1 docket, is that Public Counsel, with a
2 developer, have been able to do that. And, so,
3 I'm optimistic that we'd able to do some of
4 that. It's just a question of how much.

5 But, I mean, we have I think it's a
6 total of maybe nine witnesses, it's eight or
7 nine. The only other two, or two panels
8 possibly, at this point, are from Public
9 Counsel. So, there's no indication from the
10 Town that they would have witnesses, that could
11 change, but -- so, I don't envision it as being
12 any longer than that. If anything, I think it
13 might be shorter than that.

14 PRES. OFCR. IACOPINO: I count eleven
15 prefiled testimonies.

16 MR. PATCH: Okay. I stand corrected.

17 PRES. OFCR. IACOPINO: And some of
18 them may -- you may be planning on putting some
19 of them on by panels.

20 MR. PATCH: That's correct.

21 PRES. OFCR. IACOPINO: Have you given
22 that any thought yet? Probably not.

23 MR. PATCH: Probably. I think you're
24 right.

1 PRES. OFCR. IACOPINO: Okay. So,
2 that would be thirteen total witnesses, which
3 could be less witness testimony, if certain
4 witnesses are combined to testify as a panel,
5 which we often do.

6 MS. NEVILLE: Right.

7 PRES. OFCR. IACOPINO: And, so, --

8 MS. NEVILLE: Sorry.

9 PRES. OFCR. IACOPINO: Go ahead.

10 MS. NEVILLE: So, Arrowwood may have
11 more than one individual, but I think I was
12 thinking the panel concept would work.

13 PRES. OFCR. IACOPINO: Yes. And
14 there may also be areas where, if there's not
15 much dispute, you may want to consider putting,
16 maybe not folks from the same vendor, but that
17 have similar or overlapping opinions and
18 testimony on by panel as well.

19 But, obviously, you're going to try
20 your case -- your both going to try your cases
21 in a way that you want to present your case.
22 But I would ask that you give consideration to
23 that.

24 I think thirteen witnesses in three

1 days is doable. But it all depends on what
2 we're fighting over, I suppose.

3 Which leads us to the next concept --

4 ADMIN. MONROE: Somebody came in
5 late. Would you just mind identifying
6 yourself?

7 MS. MURPHY: Yes. Lisa Murphy, with
8 Southwest Regional Planning Commission.

9 ADMIN. MONROE: Oh. Hi, Lisa.

10 MS. MURPHY: Hi.

11 PRES. OFCR. IACOPINO: Okay. Which
12 leads to the next issue, which I'm sure will
13 probably be the same, because we're early on.
14 But, in terms of potential stipulations, have
15 the parties who are here given any thought to
16 what types of things will likely result in
17 stipulations in this matter or not?

18 MR. PATCH: Not together. I've given
19 it some thought, but it's just my own thoughts.
20 So, unfortunately, we haven't really had a
21 chance. I kind of figured it was premature,
22 given that they haven't done their review yet.
23 We agreed, obviously, there was an assented to
24 motion on the consultants. But I thought it

1 was premature to talk about that.

2 But it seemed to me some of the
3 issues, for example, like financial, technical,
4 managerial capability, that seems to me like
5 the kind of thing that might be able to be
6 stipulated to.

7 But, again, this is just my thought,
8 not something I've discussed with Public
9 Counsel.

10 PRES. OFCR. IACOPINO: And has
11 Counsel for the Public given any thought to --

12 MS. NEVILLE: Some, but I don't feel
13 comfortable stipulating at this point.

14 PRES. OFCR. IACOPINO: I'm not asking
15 for stips right now. I'm just trying to make
16 sure that everybody, --

17 MS. NEVILLE: Yes.

18 PRES. OFCR. IACOPINO: -- you know,
19 that we can make the process less time
20 consuming and more efficient if there really is
21 no, you know, say with respect to the financial
22 wherewithal of the company, if there is no real
23 objection, to simply, you know, letting the
24 Committee know, file a stipulation that you're

1 not going to do any cross-examination or
2 present a witness on that particular thing,
3 even if it's just a procedural stipulation like
4 that.

5 You may want to stipulate that, yes,
6 the Company does, indeed, have the adequate
7 financial and managerial and technical
8 capability as well.

9 But there's sort of a range of the
10 types of stipulations that could -- that you
11 could come up with in advance, that would, if
12 provided to the Chair or the Committee, would
13 be helpful in planning, as well as would be
14 helpful to everybody during the course of the
15 actual adjudicative proceeding. So, just keep
16 that in mind.

17 So, we have the proposed schedules.
18 The next thing that I wanted to talk about is
19 there is an outstanding Motion for Protective
20 Order. Counsel for the Public, you've not
21 filed any response to it that I've seen. Am I
22 correct?

23 MS. NEVILLE: You're correct. I did
24 not object to it.

1 PRES. OFCR. IACOPINO: Okay. Any
2 indication in either of your conversations with
3 the Town that the Town intends to object to it?

4 MR. PATCH: No indications. You
5 know, we've been careful, in terms of
6 information we've shared with them that would
7 qualify for that, to make sure that they keep
8 it confidential, and would urge them to do so.
9 But --

10 PRES. OFCR. IACOPINO: Just so that
11 we can advise the Chair appropriately, my
12 understanding is that the Motion at this point
13 covers Exhibit -- I'm sorry, Appendix 12B and
14 Appendix 14A and C.

15 12B is essentially a financial
16 document from the Company for the single
17 purpose LLC. And, of course, obviously,
18 NextEra is a publicly traded company, and their
19 financial information is available to the
20 world.

21 And, then, 14A and C is really a
22 statutory request for confidentiality, because
23 it involves the identification of the location
24 of archeological resources.

1 Both you've submitted, for public
2 consumption, those appendices, but they have
3 been redacted. And it's my understanding
4 that's what you're seeking to make available to
5 the public. You're not seeking to, for
6 instance, with 14A and C, you're not seeking to
7 make the whole appendix subject to the
8 protective order?

9 MR. PATCH: That's correct.

10 PRES. OFCR. IACOPINO: Okay.

11 MR. PATCH: Just the redacted
12 portions.

13 PRES. OFCR. IACOPINO: Thank you.

14 MR. PATCH: Yes.

15 PRES. OFCR. IACOPINO: And there's a
16 recent filing as well, --

17 MR. PATCH: Yes.

18 PRES. OFCR. IACOPINO: -- which also
19 contains that. And, obviously, we would
20 recommend that the Chair include that in her
21 order as well.

22 MR. PATCH: Yes. Just to note for
23 the record, we agree with that.

24 PRES. OFCR. IACOPINO: And does

1 Counsel for the Public have any objection to
2 that recent filing that contain sensitive
3 archeological information being part of a
4 protective -- not subject to public disclosure?

5 MS. NEVILLE: No objection.

6 PRES. OFCR. IACOPINO: Okay. Do we
7 anticipate any further documents that may be --
8 that any of the parties may wish to seek to
9 protect from public disclosure?

10 MR. PATCH: We don't at this time.
11 Obviously, if there are some data requests that
12 ask for information that could be considered
13 confidential, then we'll deal with that at that
14 point in time. But --

15 PRES. OFCR. IACOPINO: Well,
16 understand that your data requests are between
17 the parties. And you don't necessarily have to
18 file those with the agency. And, if they're
19 not filed with our agency, they're not
20 governmental records. They may be, if they're
21 exchanged with the Attorney General's Office,
22 but I'll leave that to the Attorney General to
23 make a determination about. But, if there's
24 something that is just for the purposes of

1 information and does not need to be filed with
2 the Committee, then it would not be a
3 governmental record that at least the Committee
4 would have to go through its three-step process
5 on it. So, I would ask you to keep that in
6 mind.

7 But I would also ask that, if there
8 is an intent to use any of these -- I mean,
9 obviously, the portions of the Application that
10 are redacted are going to be subject to the
11 protective order, if it is granted. During the
12 adjudicative hearing, the use of these
13 documents might require a further order from
14 the Chair at the time. So, I ask you to keep
15 in mind how you might want to proceed in that
16 vein.

17 And, if there are going to be any
18 exhibits that are filed that need
19 confidentiality, you're going to have to file a
20 motion to cover those as well.

21 Typically, what we've done in the
22 past is we've had other intervenors, and they
23 have signed a non-disclosure agreement, and
24 have been allowed those documents that get

1 filed with the Committee. We really don't have
2 that, because we never required it for Counsel
3 for the Public. So, we don't really have that
4 situation going on right now. So, I would
5 anticipate that the order is just going to say
6 that these documents are not -- they're exempt
7 from disclosure under 91-A or under 227, or
8 whatever the archeological statute is. I don't
9 anticipate there being that further order where
10 there is a non-disclosure agreement signed.

11 Am I correct that that's what the
12 parties envision as well?

13 MR. PATCH: I would say that's
14 correct. I mean, we're dealing with the Town
15 separately on the disclosure issue. Although,
16 they are a public body, like the Attorney
17 General's Office. So, as you were indicating
18 before, they have their own --

19 PRES. OFCR. IACOPINO: Right.

20 MR. PATCH: -- requirements under the
21 Right-to-Know law. But any documents we've
22 provided to them have been done in accordance
23 with the non-disclosure agreements.

24 MS. NEVILLE: Yes.

1 PRES. OFCR. IACOPINO: Is that the
2 way Counsel for the Public envisions this
3 occurring as well?

4 MS. NEVILLE: Yes.

5 PRES. OFCR. IACOPINO: Okay.

6 MR. PATCH: I have one other issue I
7 would like to raise at the appropriate time,
8 just because I think it's important to say
9 something about it.

10 PRES. OFCR. IACOPINO: Sure. Would
11 you just let -- Ms. Monroe, did you have
12 something you were about to address?

13 ADMIN. MONROE: No.

14 PRES. OFCR. IACOPINO: Why don't you
15 go ahead. This would be a good time.

16 MR. PATCH: Yes. As you probably
17 don't remember, because it's in the
18 Application, which is a very lengthy document,
19 but Chinook had raised the issue of the need to
20 build a substation switchyard, in order to be
21 able to interconnect with the transmission
22 line. And, in order to do so, they will have
23 to construct, in accordance with standards for
24 National Grid, and then turn over the land

1 under the substation to National Grid
2 eventually. And there's another third party
3 that would have a small portion of that as
4 well.

5 And we had mentioned that in the
6 Application. It's pretty consistent with what
7 I think the Committee has come up against in
8 other dockets. You know, particularly I'm
9 thinking of the Antrim docket, but I think
10 there was something in the Groton docket, and
11 similar kinds of issues have come up.

12 And, in the first Antrim docket, I
13 remember that there were some pleadings
14 associated with that, because at that time they
15 did not have agreement with the Town with
16 regard to the subdivision of the land necessary
17 to accomplish that. Although, I think in the
18 second docket, it's my understanding that they
19 actually got approval from the Planning Board.

20 So, we're at the stage now where
21 we're attempting to negotiate with the Town
22 over that issue, as well as others. And, so,
23 if for some reason we cannot reach agreement
24 with the Town, then that's an issue that we

1 might have to come back to the Committee with.
2 I mean, we're, obviously, hopeful we can
3 accomplish that, that we can work that out with
4 the Town.

5 There are also some complications, as
6 you probably know, with then, when you register
7 with a Register of Deeds, there are certain
8 restrictions in the statute about, you know,
9 what the Register of Deeds can actually -- can
10 actually register. And, so, there was an issue
11 with that earlier on with the Granite Reliable
12 Project, which a good portion of it was in
13 unincorporated areas, but that got resolved
14 with the county and there were no issues with
15 that.

16 So, we hope we don't have to come to
17 the Committee on that. But I just want to
18 mention that as a potential issue down the
19 road. Again, we're hoping to reach agreement
20 with the Town, and then work things out with
21 the Register of Deeds in terms of what needs to
22 be done. But there's a potential for that to
23 have to come before the Committee.

24 PRES. OFCR. IACOPINO: If I recall,

1 it's because the -- it's the town clerk or
2 somebody has to sign off on the plat or
3 something like that, that was the issue at the
4 time in that case. The Planning Board was
5 opposed to the project and threatened not to
6 sign.

7 MR. PATCH: That's right. Yes.

8 PRES. OFCR. IACOPINO: Okay.

9 MR. PATCH: I just wanted to make
10 sure you were aware of that potential issue
11 coming up.

12 PRES. OFCR. IACOPINO: So, National
13 Grid will be the owner of the land under the
14 substation?

15 MR. BAREFOOT: The switchyard.

16 PRES. OFCR. IACOPINO: The
17 switchyard?

18 MR. BAREFOOT: Yes. The switchyard.

19 PRES. OFCR. IACOPINO: Okay. And
20 what's going to be the relationship? Is there
21 a lease or something that occurs there? Is it
22 just a contract that you can deliver the
23 electricity through their switchyard?

24 MR. BAREFOOT: The switchyard is a

1 stand-alone upgrade that gets transferred in
2 fee to National Grid. So, it will become their
3 facility. And, then, the project will have a
4 substation that will step up the voltage. And
5 then it will -- there's a point of change of
6 ownership between the project's substation and
7 the utility's switchyard. But, once the
8 switchyard is constructed and assigned, it just
9 becomes part of the asset base.

10 PRES. OFCR. IACOPINO: Right. But
11 what memorializes the project's ability to use
12 the switchyard?

13 MR. BAREFOOT: There's an
14 interconnection agreement --

15 PRES. OFCR. IACOPINO: Okay.

16 MR. BAREFOOT: -- with ISO-New
17 England. It's a three-party proforma between
18 the project, ISO-New England, and National
19 Grid.

20 PRES. OFCR. IACOPINO: Okay. And is
21 that -- I assume that will be submitted as part
22 of this Application at some point, if it
23 hasn't -- or has it already?

24 MR. BAREFOOT: Yes. Well, it's

1 currently under negotiation, the document is.

2 PRES. OFCR. IACOPINO: Okay.

3 MR. BAREFOOT: Well, we're -- well,
4 just to correct, we're nearing the phase where
5 it will be negotiated. So, we'll have to work
6 through the negotiation of that document.

7 And I would note for the record that
8 document is anticipated to include Critical
9 Energy Infrastructure information, and that is
10 another example of a document where those
11 portions identified as Critical Energy
12 Infrastructure information may need to be
13 redacted.

14 MR. PATCH: Yes.

15 PRES. OFCR. IACOPINO: We'll need a
16 protective order for it, a motion for
17 protective order when that's filed as well.

18 MR. PATCH: No, that's -- that's
19 right. I mean, I should have noted that in
20 response to your question earlier, but I didn't
21 think of that. But that's another area for
22 which we may need confidential treatment.

23 ADMIN. MONROE: What's the timeframe
24 for this interconnection agreement finalizing

1 or what's the process, timingwise?

2 MR. BAREFOOT: I don't have the exact
3 schedule in front of me off the top of my mind.
4 But we -- I anticipate negotiations beginning
5 near the end of this quarter, the first quarter
6 of 2020, and potentially executed in the second
7 quarter, as early as the second quarter.

8 PRES. OFCR. IACOPINO: Did Counsel
9 for the Public want to address any of the
10 interconnection and the possibility of some --
11 well, there's going to be a transfer of some
12 portion of that facility, obviously, to the
13 transmission company?

14 MS. NEVILLE: No, not at this time.
15 I'll wait to see what's provided.

16 PRES. OFCR. IACOPINO: How are you
17 doing with the balance of your ISO
18 requirements? I know you had a system study
19 request when you filed the Application.

20 MR. BAREFOOT: Right. So, the system
21 impact study is complete. And we have been
22 reviewing that with the transmission owners.
23 And that process, once complete, would -- calls
24 us to enter into the negotiation phase for the

1 interconnection agreement.

2 PRES. OFCR. IACOPINO: So, you're
3 just about there?

4 MR. BAREFOOT: Just about there.

5 PRES. OFCR. IACOPINO: Okay. I
6 encourage you to keep the lines of
7 communication with Counsel for the Public and
8 the Town open on those issues, especially if
9 any of them are looking like they may pose
10 questions from the Committee during the course
11 of the adjudicative process.

12 So, Mr. Patch, thank you for bringing
13 up that issue. Are there any other issues that
14 any of the parties believe we would benefit
15 from some informal discussion of?

16 MR. PATCH: The only other thing I
17 would mention, again, in terms of the schedule,
18 we did not build in a post hearing brief. I
19 think we are assuming that wouldn't be
20 necessary here. And, again, we were hoping to
21 get an earlier determination from the Committee
22 than the 365 days. So, just to note, that was
23 part of our thinking at least on that.

24 I didn't hear any indication from the

1 Town or Public Counsel that they felt that was
2 necessary. But, obviously, if Ms. Neville
3 feels otherwise, she could say that.

4 But that was our thinking for not
5 building that into the schedule, hope that we
6 could avoid that, and then go right to
7 deliberations after the adjudicative portion is
8 complete.

9 PRES. OFCR. IACOPINO: Any thoughts
10 at this early stage?

11 MS. NEVILLE: At this point, I don't
12 have any counterargument. If it becomes
13 something that is identified as possibly
14 necessary, I would hope you would entertain a
15 pleading at that point.

16 PRES. OFCR. IACOPINO: Of course we
17 would. And we note -- we will note for the
18 Chair that it's not in there. Sometimes the
19 Chair may want them, because it makes --
20 sometimes it makes deliberations easier for the
21 Subcommittee to have sort of read the
22 positions, as opposed to trying to keep track
23 of them through a simple closing argument, or
24 have to go back and sort of go over the

1 transcript, and sometimes it focuses the issues
2 for the Committee. But we will see on that.
3 And appreciate you pointing that out.

4 ADMIN. MONROE: So, we have the site
5 visit scheduled for the 20th. I assume Counsel
6 for the Public will be --

7 MS. NEVILLE: Yes.

8 ADMIN. MONROE: Okay. Is the
9 Southwest -- Ms. Murphy, I don't know if you
10 saw the -- you're not on the service list.

11 MS. MURPHY: No.

12 PRES. OFCR. IACOPINO: You didn't
13 want to do that. But there is a site visit
14 scheduled for the 20th of February, beginning
15 at 3:30. If there's any interest from your
16 organization to participate, please let me
17 know.

18 MS. MURPHY: Okay. At this time, I
19 don't think there is. But I do what I'm told.

20 ADMIN. MONROE: Okay.

21 PRES. OFCR. IACOPINO: There's the --
22 and that evening is the public hearing as well,
23 just so you're aware of it.

24 ADMIN. MONROE: So, if could let me

1 know by Friday, there's a date in the order.

2 MS. MURPHY: Thank you.

3 ADMIN. MONROE: If you will be
4 joining. If you're not, there is no need to
5 tell me that.

6 PRES. OFCR. IACOPINO: Anything else
7 that anybody wants to raise at this prehearing
8 conference?

9 MS. NEVILLE: I don't have anything
10 else. Thank you.

11 PRES. OFCR. IACOPINO: All right. As
12 I said, we will prepare a report. The report
13 will be provided to the Chair, and the Chair
14 will issue a scheduling order as early as we
15 can possibly get one out.

16 So, thank you all for your
17 participation. And, as I started off, I urge
18 you all to keep the lines of communication open
19 amongst the parties. And, to the extent that
20 you can find areas of agreement, pursue those
21 areas. Thank you.

22 ***(Whereupon the prehearing***
23 ***conference was adjourned at***
24 ***9:41 a.m.)***

C E R T I F I C A T E

1
2 I, **Steven. E. Patnaude**, a Licensed Shorthand
3 Court Reporter, do hereby certify that the foregoing
4 is a true and accurate transcript of my stenographic
5 notes of these proceedings taken at the place and on
6 the date hereinbefore set forth, to the best of my
7 skill and ability under the conditions present at
8 the time.

9 I further certify that I am neither attorney or
10 counsel for, nor related to or employed by any of
11 the parties to the action; and further, that I am
12 not a relative or employee of any attorney or
13 counsel employed in this case, nor am I financially
14 interested in this action.

15
16 _____
17 Steven E. Patnaude, LCR
18 Licensed Court Reporter
19 N.H. LCR No. 52
20 (RSA 310-A:173)
21
22
23
24